

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO EARLY
5 CHILDHOOD CARE AND EDUCATION PROGRAMS; ALLOWING PRESCHOOL PUPILS TO BE INCLUDED
6 IN AVERAGE NUMBER BELONGING CALCULATIONS; ELIMINATING THE BAR AGAINST USING STATE
7 EQUALIZATION AID TO PROVIDE FUNDING FOR PRESCHOOL PROGRAMS; INCREASING STATE
8 SUPPORT OF THE BEST BEGINNINGS SCHOLARSHIP PROGRAM TO DECREASE THE FINANCIAL
9 BURDEN ON LOW-INCOME FAMILIES IN PROVIDING HIGH-QUALITY CHILD CARE; PROVIDING AN
10 APPROPRIATION; AMENDING SECTIONS 20-1-301, 20-5-101, 20-7-117, 20-9-311, AND 20-9-313, MCA;
11 AND PROVIDING AN EFFECTIVE DATE."

12

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14

15 **Section 1.** Section 20-1-301, MCA, is amended to read:

16 **"20-1-301. School fiscal year.** (1) The school fiscal year begins on July 1 and ends on June 30. At
17 least the minimum aggregate hours required in subsection (2) must be conducted during each school fiscal
18 year, except that 1,050 aggregate hours of pupil instruction for graduating seniors may be sufficient. The
19 minimum aggregate hours required in subsection (2) are not required for any pupil demonstrating proficiency
20 pursuant to 20-9-311(4)(d).

21 (2) The minimum aggregate hours required by grade are:

22 (a) 360 hours for a half-time preschool or kindergarten program or 720 hours for a full-time
23 preschool or kindergarten program, as provided in 20-7-117;

24 (b) 720 hours for grades 1 through 3; and

25 (c) 1,080 hours for grades 4 through 12.

26 (3) Except for a circumstance related to an unforeseen emergency pursuant to Title 20, chapter 9,
27 part 8, for any elementary or high school district that fails to provide for at least the minimum aggregate hours,
28 as listed in subsections (1) and (2), to any pupil not demonstrating proficiency pursuant to 20-9-311(4)(d), the

superintendent of public instruction shall reduce the BASE aid for the district for that school year by two times an hourly rate, as calculated by the office of public instruction, for the aggregate hours missed by each pupil not demonstrating proficiency pursuant to 20-9-311(4)(d)."

Section 2. Section 20-5-101, MCA, is amended to read:

"20-5-101. Admittance of child to school. (1) The trustees shall assign and admit a child to a school in the district when the child is:

(a) 5 years of age or older on or before September 10 of the year in which the child is to enroll but is not yet 19 years of age;

(b) a resident of the district; and

(c) otherwise qualified under the provisions of this title to be admitted to the school.

(2) The trustees of a district may assign and admit any nonresident child to a school in the district under the tuition provisions of this title.

(3) The trustees may at their discretion assign and admit to a school in the district:

(a) a child to a school in the district who is under 5 years of age or to be enrolled in a preschool or kindergarten program established under 20-7-117 or in a special education program established under 20-7-411;

(b) an adult who is 19 years of age or older if there are exceptional circumstances that merit waiving the age provision of this section. The trustees may also admit; and

(c) an individual who has graduated from high school but is not yet 19 years of age even though no special circumstances exist for waiver of the age provision of this section.

(4) The trustees shall assign and admit a child who is homeless, as defined in the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), to a school in the district regardless of residence. The trustees may not require an out-of-district attendance agreement or tuition for a homeless child.

(5) The trustees shall assign and admit a child whose parent or guardian is being relocated to Montana under military orders to a school in the district and allow the child to preliminarily enroll in classes and apply for programs offered by the district prior to arrival and establishing residency.

(6) Except for the provisions of subsection (4), tuition for a nonresident child must be paid in

1 accordance with the tuition provisions of this title.

2 (7) The trustees' assignment of a child meeting the qualifications of subsection (1) to a school in
3 the district outside of the adopted school boundaries applicable to the child is subject to the district's grievance
4 policy. Upon completion of procedures set forth in the district's grievance policy, the trustees' decision regarding
5 the assignment is final."

6

7 **Section 3.** Section 20-7-117, MCA, is amended to read:

8 **"20-7-117. Kindergarten and preschool programs.** (1) The trustees of an elementary district:

9 (a) may establish and operate a free preschool program for children 3 to 5 years of age pursuant
10 to 20-5-101(3)(a); and

11 (b) shall establish or make available a kindergarten program capable of accommodating, at a
12 minimum, all the children in the district who will be 5 years old on or before September 10 of the school year for
13 which the program is to be conducted or who have been enrolled by special permission at the discretion of the
14 board of trustees pursuant to 20-5-101(3)(a).

15 (2) (a) The preschool program and the kindergarten program; ~~which the trustees may designate~~
16 ~~as either a half-time or full-time program;~~

17 (i) must be an integral part of the elementary school and must be financed and governed
18 accordingly; ~~provided that to be eligible for inclusion in the calculation of ANB pursuant to 20-9-311, a child~~
19 ~~must have reached 5 years of age on or before September 10 of the school year covered by the calculation or~~
20 ~~have been enrolled by special permission of the board of trustees;~~

21 (ii) may be designated as either a half-time or a full-time program; and

22 (iii) A kindergarten program must meet the minimum aggregate hour requirements established in
23 20-1-301.

24 (b) A preschool program or a kindergarten program that is designated as a full-time program must
25 allow a parent, guardian, or other person who is responsible for the enrollment of a child in school, as provided
26 in 20-5-102, to enroll the child half-time.

27 ~~(2) The trustees of an elementary school district may establish and operate a free preschool program~~
28 ~~for children between the ages of 3 and 5 years. When preschool programs are established, they must be an~~

~~integral part of the elementary school and must be governed accordingly. Financing of preschool programs may not be supported by money available from state equalization aid.~~

(3) The legislature intends that a board of trustees of an elementary or K-12 district that establishes a preschool program under this section does so in a collaborative manner that strengthens the existing network of early childhood care and education in the district and seeks to engage in partnerships to the greatest extent possible with the goal that each resident child of the district has access to a high-quality preschool education and enters kindergarten ready to develop the child's full educational potential.

(4) The trustees may contract with a head start provider or a community-based preschool provider to provide a preschool program under this section and include children served by the provider in the preschool enrollment counts for the purposes of ANB funding provided:

(a) the pupil's education program remains under the direction and supervision of the board of trustees as described in the terms of the contract;

(b) the contractor does not charge tuition or fees during any instructional time supported by public funds; and

(c) the contractor's preschool program is provided in accordance with the standards of accreditation for preschool programs adopted by the board of public education."

Section 4. Section 20-9-311, MCA, is amended to read:

"20-9-311. Calculation of average number belonging (ANB) -- 3-year averaging. (1) Average number belonging (ANB) must be computed for each budget unit as follows:

(a) compute an average enrollment by adding a count of regularly enrolled pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on the first Monday in February of the prior school fiscal year or the next school day if those dates do not fall on a school day, and divide the sum by two; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than the minimum aggregate hours under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) (a) Except as provided in subsection (4)(d), for the purpose of calculating ANB, enrollment in an education program:

(i) from 180 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time enrollment;

(ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time enrollment;

(iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time enrollment; and

(iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

(b) Except as provided in subsection (4)(d), enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

(c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on the hours necessary and appropriate to provide the course within a regular classroom schedule.

(d) A school district may include in its calculation of ANB a pupil who is enrolled in a program providing fewer than the required aggregate hours of pupil instruction required under subsection (4)(a) or (4)(b) if the pupil has demonstrated proficiency in the content ordinarily covered by the instruction as determined by the school board using district assessments. The ANB of a pupil under this subsection (4)(d) must be converted to an hourly equivalent based on the hours of instruction ordinarily provided for the content over which the student has demonstrated proficiency.

(e) A pupil ~~in kindergarten through grade 12~~ who is concurrently enrolled in more than one public school, program, or district may not be counted as more than one full-time ~~pupil enrollment~~ for ANB purposes.

(5) For a district that is transitioning from a half-time to a full-time preschool or kindergarten program, the state superintendent shall count preschool or kindergarten enrollment in the previous year as full-time enrollment for the purpose of calculating ANB for the elementary programs offering full-time preschool or kindergarten in the current year. For the purposes of calculating the 3-year ANB, the superintendent of public

instruction shall count the preschool or kindergarten enrollment as one-half enrollment and then add the additional kindergarten ANB to the 3-year average ANB for districts offering full-time preschool or kindergarten.

(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) ~~(a) The enrollment of preschool pupils, as provided in 20-7-117, may not be included in the ANB calculations.~~ A pupil in the following programs may be included in the ANB calculations:

(i) a preschool program established under 20-7-117, provided the pupil has reached 3 years of age on or before September 10 of the school year; or

(ii) a special education program for a preschool child with a disability established under 20-7-411(3).

(b) Except as provided in subsection (7)(c), a pupil who has reached 19 years of age by September 10 of the school year may not be included in the ANB calculations.

(c) A pupil with disabilities who is over 19 years of age and has not yet reached 21 years of age by September 10 of the school year and who is receiving special education services from a school district pursuant to 20-7-411(4)(a) may be included in the ANB calculations if:

(i) the student has not graduated;

(ii) the student is eligible for special education services and is likely to be eligible for adult services for individuals with developmental disabilities due to the significance of the student's disability; and

(iii) the student's individualized education program has identified transition goals that focus on preparation for living and working in the community following high school graduation since age 16 or the student's disability has increased in significance after age 16.

(d) A school district providing special education services pursuant to subsection (7)(c) is encouraged to collaborate with agencies and programs that serve adults with developmental disabilities in meeting the goals of a student's transition plan.

(8) The average number belonging of the regularly enrolled pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled pupils attending the schools of the district, except that:

- 1 (a) the ANB is calculated as a separate budget unit when:
- 2 (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or
- 3 town located in the district and at least 20 miles from any other school of the district, the number of regularly
- 4 enrolled pupils of the school must be calculated as a separate budget unit for ANB purposes and the district
- 5 must receive a basic entitlement for the school calculated separately from the other schools of the district;
- 6 (ii) a school of the district is located more than 20 miles from any other school of the district and
- 7 incorporated territory is not involved in the district, the number of regularly enrolled pupils of the school must be
- 8 calculated separately for ANB purposes and the district must receive a basic entitlement for the school
- 9 calculated separately from the other schools of the district;
- 10 (iii) the superintendent of public instruction approves an application not to aggregate when
- 11 conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or
- 12 when any other condition exists that would result in an unusual hardship to the pupils of the school if they were
- 13 transported to another school, the number of regularly enrolled pupils of the school must be calculated
- 14 separately for ANB purposes and the district must receive a basic entitlement for the school calculated
- 15 separately from the other schools of the district; or
- 16 (iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the
- 17 ANB and the basic entitlements of the component districts must be calculated separately for a period of 3 years
- 18 following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3
- 19 additional years as follows:
- 20 (A) 75% of the basic entitlement for the fourth year;
- 21 (B) 50% of the basic entitlement for the fifth year; and
- 22 (C) 25% of the basic entitlement for the sixth year.
- 23 (b) when a junior high school has been approved and accredited as a junior high school, all of the
- 24 regularly enrolled pupils of the junior high school must be considered as high school district pupils for ANB
- 25 purposes;
- 26 (c) when a middle school has been approved and accredited, all pupils below the 7th grade must
- 27 be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered
- 28 high school pupils for ANB purposes; or

(d) when a school has been designated as nonaccredited by the board of public education because of failure to meet the board of public education's assurance and performance standards, the regularly enrolled pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district.

(9) The district shall provide the superintendent of public instruction with semiannual reports of school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the superintendent.

(10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes only if the pupil is offered access to the complete range of educational services for the basic education program required by the accreditation standards adopted by the board of public education.

(b) Access to school programs and services for a student placed by the trustees in a private program for special education may be limited to the programs and services specified in an approved individual education plan supervised by the district.

(c) Access to school programs and services for a student who is incarcerated in a facility, other than a youth detention center, may be limited to the programs and services provided by the district at district expense under an agreement with the incarcerating facility.

(d) This subsection (10) may not be construed to require a school district to offer access to activities governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a pupil who is not otherwise eligible under the rules of the organization.

(11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this title and who is:

(a) a resident of the district or a nonresident student admitted by trustees under a student attendance agreement and who is attending a school of the district;

(b) unable to attend school due to a medical reason certified by a medical doctor and receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(c) unable to attend school due to the student's incarceration in a facility, other than a youth detention center, and who is receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(d) receiving special education and related services, other than day treatment, under a placement by the trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's expense under an approved individual education plan supervised by the district;

(e) participating in the running start program at district expense under 20-9-706;

(f) receiving educational services, provided by the district, using appropriately licensed district staff at a private residential program or private residential facility licensed by the department of public health and human services;

(g) enrolled in an educational program or course provided at district expense using electronic or offsite delivery methods, including but not limited to tutoring, distance learning programs, online programs, and technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite instructional setting with the approval of the trustees of the district. The pupil shall:

(i) meet the residency requirements for that district as provided in 1-1-215;

(ii) live in the district and must be eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or

(iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

(h) a resident of the district attending the Montana youth challenge program or a Montana job corps program under an interlocal agreement with the district under 20-9-707.

(12) A district shall, for ANB purposes, calculate the enrollment of an eligible Montana youth challenge program participant as half-time enrollment.

(13) (a) A district may, for ANB purposes, include in the October and February enrollment counts an individual who is otherwise eligible under this title and who during the prior school year:

(i) resided in the district;

(ii) was not enrolled in the district or was not enrolled full time; and

(iii) completed an extracurricular activity with a duration of at least 6 weeks.

(b) (i) Except as provided in subsection (13)(b)(ii), each completed extracurricular activity under

subsection (13)(a) may be counted as one-sixteenth enrollment for the individual, but under this subsection (13) the individual may not be counted as more than one full-time enrollment for ANB purposes.

(ii) Each completed extracurricular activity lasting longer than 18 weeks may be counted as one-eighth enrollment.

(c) For the purposes of this section, "extracurricular activity" means:

(i) a sport or activity sanctioned by an organization having jurisdiction over interscholastic activities, contests, and tournaments;

(ii) an approved career and technical student organization, pursuant to 20-7-306; or

(iii) a school theater production.

(14) (a) For an elementary or high school district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever generates the greatest maximum general fund budget.

(b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and high school programs pursuant to subsection (14)(a) and then combined.

(15) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

(a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the previous 2 school fiscal years; and

(b) dividing the sum calculated under subsection (15)(a) by three."

Section 5. Section 20-9-313, MCA, is amended to read:

"20-9-313. Circumstances under which regular average number belonging may be increased.

(1) The average number belonging of a school, calculated in accordance with the ANB formula prescribed in 20-9-311, may be increased when:

(a) the opening of a new elementary school or the reopening of an elementary school has been approved in accordance with 20-6-502. The average number belonging for the school must be established by

the county superintendent and approved, disapproved, or adjusted by the superintendent of public instruction.

(b) the opening or reopening of a high school or a branch of the county high school has been approved in accordance with 20-6-503, 20-6-504, or 20-6-505. The average number belonging for the high school must be established by the county superintendent's estimate, after an investigation of the probable number of pupils that will attend the high school.

(c) a district anticipates an increase in the average number belonging due to the closing of a private or public school in the district or a neighboring district. The estimated increase in average number belonging must be established by the trustees and the county superintendent and approved, disapproved, or adjusted by the superintendent of public instruction no later than the fourth Monday in June.

(d) a district anticipates an unusual enrollment increase in the ensuing school fiscal year. The increase in average number belonging must be based on estimates of increased enrollment approved by the superintendent of public instruction and must be computed in the manner prescribed by 20-9-314.

(e) (i) for the initial year of operation of a preschool program established under 20-7-117(1), the ANB to be used for budget purposes for the preschool program must be determined by a procedure approved by the superintendent of public instruction; and

(ii) for the initial year of operation of a kindergarten program established under 20-7-117(1), the ANB to be used for budget purposes is:

~~(i)(A)~~ one-half the number of 5-year-old children residing in the district as of September 10 of the preceding school year, either as shown on the official school census or as determined by some other procedure approved by the superintendent of public instruction, for the purpose of implementing a half-time kindergarten program as provided in 20-1-301; or

~~(ii)(B)~~ the number of 5-year-old children residing in the district as of September 10 of the preceding school year, either as shown on the official school census or as determined by some other procedure approved by the superintendent of public instruction, for the purpose of implementing a full-time kindergarten program as provided in 20-1-301; or

(f) a high school district provides early graduation for a student who completes graduation requirements in less than eight semesters or the equivalent amount of secondary school enrollment. The increase must be established by the trustees as though the student had attended to the end of the school fiscal

1 year and must be approved, disapproved, or adjusted by the superintendent of public instruction.

2 (2) This section does not apply to the expansion of a half-time kindergarten program to a full-time
3 kindergarten program."

4
5 **NEW SECTION. Section 6. Appropriation.** (1) There is appropriated \$10 million from the general
6 fund to the department of public health and human services in each year of the biennium beginning July 1,
7 2023, for the purposes of providing additional state support for the best beginnings scholarship program to
8 reduce the financial burden on low-income families in providing quality child care for their children through any
9 or all of the following:

- 10 (a) expanding program eligibility to serve more low-income families;
11 (b) reducing required copayments; and
12 (c) increasing the state rate paid to providers.

13 (2) The legislature intends that the appropriation in this section be considered part of the ongoing
14 base for the next legislative session.

15
16 **NEW SECTION. Section 7. Effective date.** [This act] is effective July 1, 2023.

17 - END -